ENVIRONMENTAL ASSESSMENT, FONSI AND DECISION RECORD

BLM, Bishop Field Office
351 Pacu Lane, Suite 100
Bishop, CA 93514

EA Number:	DOI-BLM-CAC-070-2010-0029-EA
Lease/Serial/Case File No.:	CACA 043064 (ROW Amendment)
Proposed Action Title/Type:	LADWP Area T37-1 Access Road
Location of Proposed Action:	MDB&M, T. 16 S., R. 36 E., Section 35, NE1/4NE1/4NE1/4NW1/4, NW1/4NW1/4NW1/4NE1/4.
Applicant (if any):	Los Angeles Dept. of Water and Power

Plan Conformance:

The proposed action is subject to the Bishop Resource Management Plan (RMP) which was approved on March 25 1993. The proposed action has been reviewed and is in conformance with the plan even though it is not specifically provided for, because it is clearly consistent with the following RMP policy.

The 1993 Bishop RMP states under General Policies on Page 8, No.1; “Management will be on the basis of multiple use and sustained yield as per FLPMA section 102 (a)(7).” Under the idea of multiple-use and sustained yield, the BLM is also authorized under FLPMA section 501(a)(1-7) to grant Rights-of-Way (ROW) and amendments to ROWs for such uses as pipelines, roads, power lines, wells, and other facilities on the public lands for the public good.

In addition, the proposed action does not violate any Bishop RMP decisions, terms, or conditions.

Purpose and Need for Proposed Action:

The purpose of the project is to provide access across public lands to the Owens Lake Dust Mitigation Project Area T37-1 and to allow for certain surface disturbing activities associated with the road use. The road intersection with Hwy 395 needs to be safe for both the traveling public and personnel using the access road for working on the lake, and the improvements should cause the least amount of disturbance. The road would be used for construction, operation and maintenance purposes for Area T37-1 in order to reduce dust emissions from that area.

The original propose has been amended to include road access for a proposed LADWP solar project on the lake. The access use would be similar to the access use for the

T37-1 construction and would add another 1-2 years of heavy road use. It is unknown if the solar project will ever be constructed. Review of the road access use for a solar project has been considered. This EA has been written to take into account the use of the road for the potential solar project but will only reference the T37-1 project.

The need for the project is established by BLM's responsibility under FLPMA to respond to a request for a right-of-way grant or amendment for legal access across public lands. The BLM will determine whether or not to grant the right-of-way amendment proposal.

Description of Proposed Action, Alternative A:

The proposed action would be to grant an amendment to an existing road ROW (CACA 043064) held by the Los Angeles Department of Water and Power. The amendment would authorize construction of a paved ingress and egress apron and cattle guard at the intersection of Hwy 395, expand the existing road to accommodate the apron and allow for periodic maintenance consisting of grading, gravel fill, and dust control watering during use on 670 feet of dirt road. See Exhibit A and B.

The existing road varies in width from 15 to 25 feet wide and extends 670 feet from the Hwy 395 edge of pavement to a spot where it intersects with a dirt road which is already authorized under the existing ROW CACA 043064. The existing road would not be widened except for the western end where the road meets Hwy 395.

The western end would be widened in a triangular shape with a maximum width of 300 feet adjacent to the highway edge line and tapering to 40 feet along a length of 120 feet and then tapering again to 20 feet along a length of 60 feet. An asphalt-paved ingress and egress apron would be constructed at this site and the existing cattle guard would be extended by 14 feet. The intersection would have traffic controls (signage) per the Caltrans encroachment permit. See Caltrans Encroachment Permit design (Exhibit C).

The 670 feet of access road (-80 feet of asphalt pavement) would be topped with a compacted gravel base and would require periodic maintenance of grading, gravel refill, and the use of a water truck for dust control during construction and long-term use. Dust palliatives may also be used rather than water. Grading and gravel fill would be confined to the existing width of disturbance.

The ingress/egress apron construction would use a water tender, dump trucks, backhoe, grader, a bulldozer, asphalt paver, and pickup trucks. LADWP has a Caltrans encroachment permit for the apron and is required to comply with Caltrans rules and regulations including the National Pollution Discharge Elimination System (NPDES), the Storm Water Pollution Protection Plan (SWPPP), or the Water Pollution Control Program (WPCP).

Road construction could take place anytime from April 20, 2010 to November, 2010 and would take about 2 weeks. It is expected that 15-20 people would be onsite during construction.

Long-term road use would initially consist of movement of semi-flatbed and dump trucks, utility trucks, and pick-ups during the Owens Lake construction phase. This would amount to up to 60 trips per day with the heavy trucks (25 tons/load), 5 days a week during daylight hours. Road travel would be consistent for months at a time and then cyclical when additional materials would be needed. The Owens lake build-out would be completed in 5-10 years. Post-construction use would consist of daily travel with pick-up trucks for operation and maintenance of the Owens lake facilities. The travel would amount to 5-20 trips per day.

No Action Alternative, Alternative B:

Under this alternative, the proposed action would not be authorized and the existing un-improved road would be used by LADWP for access to the T37-1 area and the Owens lake facilities. The proposed road improvements would not take place.

Description of Alternatives that were considered but were not analyzed:

There are other existing roads exiting Hwy 395 in the area but they do not provide the proper sight distance along Hwy 395, or are further south of the T37-1 area.

Another alternative would be to create a whole new road for the access. A newly constructed road would have a larger amount of surface disturbance and resulting vegetation loss than the proposed action. The shortest distance to T37-1 is about 3,000 feet which would be about 90,000 sq ft or 2 acres of new disturbance.

The BLM prefers to utilize existing roads, where possible, when considering access routes to project sites. The proposed action utilizes an existing road and except for the ingress/egress apron at the intersection of Hwy 395, and appears to have a minimal amount of resource impact.

The above alternatives do not meet the need and purpose of the proponent.

Based on the above, no other alternatives were considered except for the proposed action and the no action alternative.

Affected Environmental and Impacts, Alternative A:

Due to the geographic location, size and configuration of the proposed road amendment, many resource values do not occur or exist in the area potentially affected by this proposed action. The following resource list identifies those physical, biological or other pertinent resources BLM considered and discarded from further evaluation because of their nonexistence:

Areas of Critical Environmental Concern
Essential Fish Habitat

Farmlands, Prime or Unique
Floodplains
Hazardous Materials
Minerals (Mining Activity)
Threatened & Endangered Vegetation
Threatened & Endangered Wildlife
Waste, Hazardous or Solid
Wilderness or Wilderness Study Areas
Wild & Scenic Rivers
Environmental Justice, Low income or Minority groups, per Executive Order 12898 (2/11/94).

The following resources exist in the area of potential effect, are described, and analyzed for impacts:

Cultural resources

The proposed action area was assessed for cultural resources by the BLM Bishop FO archeologist on March 11, 2010 and documented in report CA0170-10-38. No cultural resources were located within the Area of Potential Effect (APE). There would be no impact to cultural resources from the proposed action unless sub-surface resources were discovered during construction.

Visual resources

The proposed action area is designated as a Class IV for Visual Resource Management. Class IV is defined as, "Contrasts may attract attention and be a dominant feature of the landscape in terms of scale, however, the change should repeat the basic elements inherent in the characteristic landscape."

The critical viewpoint (CVP) for the proposed action is along Hwy 395 and consists of views by the traveling public from both the southbound and northbound lanes. The traffic speed is 65-75 mph.

In this area, the project area is adjacent to the highway, and the existing dirt road intersection is visible on the east side of the pavement. It is unmarked and generally un-noticeable with the existing cattle-guard blending in with the highway fencing. The road entrance is level with the highway shoulder and then slopes downward toward the lakeshore. Except for the beginning 200 feet of road, the road is not visible from Hwy 395 due to a hilly ridge.

The proposed action would not greatly change the existing intersection except for the asphalt and widening of the road for the apron. Since the road drops off from the highway shoulder at a gently to moderate slope, it tends to move out of view of the traveling public rather quickly, especially at speeds of 65+ mph. The view from both

lanes is generally toward the lake and the easterly slopes of the Southern Inyo Mountains. This view is generally outward and not down on the immediate adjacent slope where the road is located.

The proposed action would not attract attention and become a dominant feature in the landscape, but rather, mimic the existing road entrance and road segment. The proposal meets VRM Class IV standards, and therefore, there is no impact to VRM.

Vegetation

The proposed project area is in a desert scrub community type with a variety of representative perennial shrub and annual forb species. Dominant species include *Atriplex polycarpa* (cattle spinach), *Hymenoclea salsola* (cheesbush), Atriplex canescens (4-wing saltbush) *Lycium cooperi* (desert tomato), *Psorothamnus arborescens* (indigo bush), *Amborsia dumosa* (burro-bush), and scattered *Grayia spinosa* (spiny hopsage). Annual and perennial forbs include; *Lepidium flavum*, *Phacelia bicolor, Acamptopappus shockleyi, Lupinus flavoculatus, Gilia sinuata,* and *Crypthantha* ssp.

The project proposal would remove approximately 2,000 sq ft. of desert scrub vegetation totaling approximately 30 shrubs. No long-term impacts, e.g. loss of plant resiliency and cover to the surrounding plant community types would occur as a result of the proposed action.

Special Status Plant Species

No BLM Special Status Plant Species populations are present in the proposed project area based on a field survey conducted on 3/18/2010 as well as CNDDB (2010) records. Special Status Plant Species are those species that have been listed by the California Native Plant Society as List 1B species, which includes plants that are rare, threatened, or endangered in California and elsewhere. All of the plants constituting List 1B meet the definition of Sec. 1901, Chapter 10 (Native Plant Protection Act), or Secs. 2062 and 2067 (California Endangered Species Act) of the California Department of Fish and Game Code, and are eligible for state listing. The Bishop Resource Management Plan (BLM 1993, p. 17) stipulates year-long protection of sensitive plants (Special Status Plants) and their associated habitats.

One *Muilla coronata* (Crowned muilla) was found which is a CNPS List 4 species. It is likely more of these exist throughout the range of habitat that occurs on this alluvial bench that extends from Owens Lake down to Olancha. Annual and perennial forb production is above-average this year which would increase the potential representation of BLM Special Status Plant species if present.

Invasive, non-native species

Scattered *Schismus arabicus* and red brome (*Bromus madrietensis* ssp. *rubens*) were located in the project area, but comprised 5% or less of the total plant cover.

No net increases to invasive weed species are likely to occur as a result of the proposed action because standard operating procedures to reduce weed seed spread have been incorporated in the ROW. Existing annual weeds would be uprooted and removed during the implementation of the proposed action which is before pre-seed set for these species. This action would in turn remove these species contribution to the seed bank.

Wildlife habitat

The project area provides some habitat for birds, lizards, and small mammals with about 10% cover of desert scrub vegetation up to 1 m height and scattered forbs. It is not known or expected to support any listed or sensitive species or other species of concern. The project area is not in a rare or unusual habitat type and the area to be disturbed represents a very small percentage of similar, adjacent available wildlife habitat. The wildlife field exam was conducted on March 31, 2010.

Disturbance to any resident wildlife would increase with increasing use of the road. The project area is entirely within about 300 feet of Highway 395, so traffic disturbance is already a feature of the general area.

Under the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 United States Code 703–711), it is unlawful to take or kill migratory birds or their nests or eggs. Executive Order 13186 issued January 11, 2001, further defines the responsibilities of federal agencies to protect migratory birds; a list of those protected birds can be found in 50 CFR 10.13 and includes several birds likely to use and possibly nest in this habitat.

By destroying shrubs, the project could result in “unintentional take” (as defined in EO 13186) of nests or eggs. This would not, however, be likely to have a measurable negative effect on any species’ population. Unintentional take could be avoided by conducting the work outside of the March through July nesting season; or by checking each of the approximately 30 shrubs to be destroyed to verify there are no nests, and if any are found, waiting until the young have fledged before beginning work.

Air quality

Air quality would be affected. The proposed action is within the Owens Valley federal nonattainment area. The action would result in the emission of PM_{10}.

Because the Owens Valley is classified non-attainment for PM10 the access road would be subject to EPA’s General Conformity requirement. Reasonably foreseeable dust emissions associated with access road use must be quantified.

Emissions must be shown to be less than de minimis threshold amounts of 70 ton/yr. It must also be shown to be below significant levels which are defined as less than 10 percent of a non-attainment or maintenance area's total emissions budgeted for PM10. The PM10 Planning emissions Inventory of the Owens Valley PM110 Demonstration of Attainment State Implementation Plan (SIP) is 8,905.4 tons per day or 294,080 tons per year. The 10 percent limit is 890 tons per day or 29,408 tons per year.

Emissions calculated for the access road based on 60 trips with 25 ton loads, and 240 days per year. PM10 emissions for both access road dust and exhaust would be 0.013 tons per day or 2.35 tons per year. See Exhibits D and E.

The proposed action would be below the de minimis threshold and would be below 10 percent of a non-attainment or maintenance area's total emissions budgeted for PM10. The proposed action is exempt from any further requirements under the Federal Conformity Rule 40 CFR 93.153©(1). See Exhibit F

Climate Change

United States Department of Interior, Order Number 3226, signed January 19, 2001, Evaluating Climate Change Impacts in Management Planning, is an order to ensure that climate change impacts are taken into account in connection with planning and decision making. Climate change refers to any significant change in measures of climate (e.g. temperature or precipitation) lasting for an extended period of time (decades or longer). Climate change may result from: natural processes, such as changes in the sun's intensity; natural processes within the climate system (e.g. changes in ocean circulation); human activities that change the atmosphere's composition (e.g. burning fossil fuels) and the land surface (e.g. urbanization) (IPCC, 2007.

"There is broad scientific consensus that humans are changing the chemical composition of our atmosphere" (Jones & Stokes, August 2007). Changes in the atmosphere have likely influenced temperature, precipitation, storms, and sea level (IPCC, 2007). Rising greenhouse gas (GHG) levels are likely contributing to global climate change. In the eastern Sierra region of California, climate change may result in warmer, drier conditions, and potentially more extreme weather events.

However, challenges exist to determine what fractions of climate change are due to natural variability versus human action since natural contributions of GHGs occur (USEPA #430-R-08-005, 2008).

The potential impact to air quality, concerns the levels of Green House Gas (GHG) emissions from the construction phase of the 0.38 acre project, and the long-term use of the road for access. The project incorporates measures that substantially reduce GHG emissions during construction from the use of equipment that meets current standards for State of California exhaust emissions. The access road would operate under a GBUAPCD permit and would incorporate the use of water or dust palliatives during intensive periods of road.

The Great Basin Unified Air Pollution Control District has pointed out that there is a lack of agency-adopted standards for which to determine whether potential cumulative impact is or is not significant. The portion of GHG emissions originating from the construction phase of the 0.38 acres of public land is not considered to be significant in relation to the total emissions of the Owens Lake Dust Mitigation 9,664 acre project.

Concerning GHG emissions and potentially subsequent Global Warming impacts, current regulations and standards in regards to greenhouse gases have not been developed and finalized, and it cannot be determined to a reasonable degree of certainty that the proposed project would result in a considerable incremental contribution to the significant cumulative impact of global climate change.

Safety

The speed limit on Hwy 395 is 65 MPH with traffic moving at 65 to 75 MPH. Traffic varies greatly between daylight and nighttime and during the week. Traffic can be light to heavy use. The existing Hwy 395 access road entrance does not have a decel/accel turnout lane but is adequate for occasional use by small vehicles. It is inadequate and hazardous for large semi flatbeds and dump trucks.

It is expected that the proposed paved ingress/egress apron with signage will provide a safe decel/accel turnout lane intersection for both semi-trucks and the traveling public.

Cumulative effects

This project is expected to contribute to cumulative effects because its impacts are largely confined to air quality through PM10 emissions. Although the emissions are very low, they do add to the existing air quality problems in the Owens Valley. The purpose of the project is to provide a haul road so that mineral material can be transported to the various areas of the lake needing dust mitigation. The overall benefit from the dust mitigation project is a reduction of PM10 emissions from Owens Lake to the levels as required by the National Ambient Air Quality Standards by 2010. There is an overall health benefit from PM10 emission reduction and a general improvement of air and visual quality for the Owens Valley especially during high wind events. This project does not have significant impacts upon the human environment.

Cumulative effects of the proposed action are largely confined to the Inyo County area where the east-central Sierra is a popular and heavily visited vacation destination. Regarding the proposed action, past and present actions are concentrated in the Owens Lake basin where dust emissions have been generated as part of the mitigation activities taking place on the lake shore for the last 5 years. In the foreseeable future, it is expected the dust emission construction activities will cease and the mitigation project will vastly improve air quality in the Owens Lake basin and the Owens Valley in general.

The assessment of GHG emissions and climate change remains in its formative phase.

The lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of climate change on resources within the Bishop Field Office. In addition, while the proposed action and no action alternatives may involve some future contribution of GHGs, these contributions would not have a noticeable or measurable effect, independently or cumulatively, on a phenomenon occurring at the global scale believed to be due to more than a century of human activities. Neither the proposed action nor the no action alternative would authorize an increase in activities that would increase GHG emissions.

It is not expected that the loss of vegetation would have a cumulative effect in the local area due to the large amount of intact acreage having vegetative characteristics similar to that lost.

Considering the migratory bird nesting and potential egg loss impact, there are other activities taking place within the Owens Valley area that are potentially removing habitat or destroying migratory nests. These activities are taking place on private land and are associated with the dust mitigation project. Development in the valley is not taking place at a rapid rate where loss of habitat is accelerating over time. Any activities taking place on the lake shore are mitigated for migratory bird impacts. The field exam was conducted during the nesting season and no obvious nests were located in the shrubs that would be removed. It is also projected that even if a nest or eggs were inadvertently destroyed, there would likely be no measurable negative effect on any species' or population.

Description of Mitigation Measures and Residual Impacts:

1. Utilize standard ROW stipulations for cultural resources. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

2. Prior to entering public land, all equipment will be spray-washed in order to remove weed seeds and or dirt clods which might contain weed seeds.

3. Execute noxious weed control measures during the life of the project and up to five years after rehabilitation of the site. Weed treatment would include physical removal of Russian thistle seedlings.

4. Except for the Hwy 395 access point and widening, the remaining existing road will not be widened. Maintenance can consist of grading and the addition of gravel for road base as long as the existing road width is not enlarged.

5. Water or BLM acceptable dust palliative will be used during construction road access use for dust control.

6. Restrict project construction during the March through July migratory bird nesting season

7. Prior to construction check each of the approximately 30 shrubs to be destroyed to verify there are no bird nests, and if any are found, postpone construction until the young have fledged.

Utilization of the above mitigation would minimize potential impacts to cultural resources, weed invasion, PM10 emissions and migratory birds. The only residual impacts upon applying the mitigation would be that PM10 dust emissions would not be eliminated but highly reduced after the dust mitigation project is completed on the Owens lake.

Implementation Monitoring:

Bishop FO realty specialist will verify that the action and any required mitigation have been completed as described.

Environmental Impacts, Alternative B:

Under this alternative, the proposed action would not be authorized and the existing road would be used by LADWP for access to the T37-1 area. The proposed road improvements would not take place. The existing road would be used but not improved.

Generally, the road ingress/egress apron improvement and widening would have improved safety along Hwy 395 by allowing for slow trucks turning onto the access road to pull off and make the turn into the dirt road. Highway safety would be affected by the loss of the intersection improvement.

In addition, the other road improvements would have created a more effective road for the vehicles traveling to the T37-1 area. It is expected that LADWP and associated contractors would have more equipment breakdowns, loss of safety, and truck hauling delays from using the un-improved access road.

There would not be a loss of 30 shrubs of native desert scrub vegetation or nor a potential loss of migratory bird habitat.

Persons/Agencies Consulted:

Jaime Valenzuela	LADWP, Civil Engineering Associate II
Bob Strub	LADWP, Project Assistant

Preparer(s):

Larry Primosch	BLM, Realty Specialist
Anna Halford	BLM, Botanist
Greg Haverstock	BLM, Archeologist
Joy Fatooh	BLM, Wildlife Biologist

Date: April 11, 2010

References

Intergovernmental Panel on Climate Change. IPCC Fourth Assessment Report: Climate Change 2007. Available at: <http://www.ipcc.ch/ipccreports/assessments-reports.htm>

Jones & Stokes Climate Change Focus Group (Tony Held, Ph.D, P.E., Terry Rivasplata, AICP, Ken Bogdan, J.D., Tim Rimpo, Rich Walter). August 2007. Addressing Climate Change in NEPA and CEQA Documents. Available at: <http://www.climatechangefocusgroup.com>

Reviewed By:_____ Date: _____
Environmental Coordinator

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FINDING OF NO SIGNIFICANT IMPACT (FONSI)
LADWP Area T37-1 Access Road

I have reviewed this environmental assessment for the Los Angeles Department of Water and Power Area T37-1 Access Road including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action (Alternative A) with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required.

There will be no effect on threatened or endangered species as a result of the action.

I have determined that the proposed project is in conformance with the Bishop Resource Management Plan, which was approved March 25, 1993. This plan has been reviewed, and the proposed action conforms with the land use plan terms and conditions as required by 43 CFR 1610.5.

It is my decision to implement the project with the mitigation measures identified below. The use of the mitigation measures will minimize potential impacts to cultural, noxious weeds, air quality resources and migratory birds. The only residual impacts upon applying the mitigation would be that PM10 dust emissions would not be eliminated but highly reduced and well within conformity standards. The Owens Lake dust mitigation project would reduce PM10 emissions within the Owens Lake basin and the valley as a whole.

I did not utilize the migratory bird mitigation which postponed the project until after the migration season ended. The field exam did not cite any migratory bird nests at the end of March. I have included a pre-construction field exam to look for migratory bird nests. If any are found then the project would be postponed until July 31.

I chose Alternative A because it meets the proponent's purpose and need and is the acceptable alternative. The no action alternative would create higher safety concerns on Hwy 395 due to the currently poor road entrance and exit from the existing road.

Regarding the potential use of the road for a future solar project on the lake, I find that the EA analysis adequately covers that potential use and should that future use take place, I would not change my decision at this time. The Finding of No Significant Impact is still valid.

Mitigation Measures/Remarks:

1. Utilize standard ROW stipulations for cultural resources. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder,

or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

2. Prior to entering public land, all equipment will be spray-washed in order to remove weed seeds and or dirt clods which might contain weed seeds.

3. Execute noxious weed control measures during the life of the project and up to five years after rehabilitation of the site. Weed treatment would include physical removal of Russian thistle seedlings.

4. Except for the Hwy 395 access point and widening, the remaining existing road will not be widened. Maintenance can consist of grading and the addition of gravel for road base as long as the existing road width is not enlarged.

5. Water or BLM acceptable dust palliative will be used during construction road access use for dust control.

7. Prior to construction check each of the approximately 30 shrubs to be destroyed to verify there are no bird nests, and if any are found, postpone construction until the young have fledged.

Authorized Official: _____ **Date:**_____

Bernadette Lovato
Field Manager
Bishop Field Office